



General Assembly

Substitute Bill No. 5364

February Session, 2004

* _____HB05364HS_APP031104_____*

AN ACT CONCERNING FUNERAL AND BURIAL PLOT ALLOWANCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-91 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The commissioner shall exclude, in the determination of
4 eligibility for the state supplement program and the temporary family
5 assistance program, burial funds in an amount not to exceed the
6 maximum [amount] allowance provided in section 17b-84, as amended
7 by this act. Such funds may be in the form of prepaid funeral service
8 contracts as described in section 42-200, irrevocable funeral contracts
9 or the face value of life insurance policies if the cash surrender value is
10 excluded, or any combination thereof, not to exceed the maximum
11 amount provided in said section 17b-84.

12 (b) The commissioner shall exclude, in the determination of
13 eligibility for the state supplement program and for the temporary
14 family assistance program, the value of a burial plot not to exceed one
15 exclusion per individual. As used in this section, "value of a burial
16 plot" means the value of a grave site, opening and closing a grave site,
17 a cremation urn, a casket, an outer burial container and a headstone or
18 marker.

19 (c) The commissioner shall exclude from consideration as an asset,
20 in the determination of eligibility for the state supplement program
21 and for the temporary family assistance program, the value of an
22 irrevocable funeral contract except that the value of such contract shall
23 be considered ~~[towards]~~ toward the amount excluded in subsection (a)
24 of this section.

25 (d) The commissioner shall calculate the burial fund amount in
26 subsection (a) of this section, the value of a burial plot in subsection (b)
27 of this section and the value of an irrevocable funeral contract in
28 subsection (c) of this section uniformly throughout the state.

29 ~~[(d)]~~ (e) Nothing in this section shall prevent the commissioner from
30 excluding from consideration as an asset in the determination of
31 eligibility for the state supplement program, or the temporary family
32 assistance program other personal or real property as ~~[he]~~ the
33 commissioner determines is necessary for the effective administration
34 of such programs.

35 ~~[(e)]~~ (f) Where federal law or regulations governing the state
36 supplement program, the temporary family assistance program, or the
37 medical assistance program conflict with the provisions of this section,
38 such law or regulations shall prevail.

39 Sec. 2. Section 17b-261 of the general statutes, as amended by section
40 10 of public act 03-2, section 2 of public act 03-28, section 7 of public act
41 03-268 and section 63 of public act 03-3 of the June 30 special session, is
42 repealed and the following is substituted in lieu thereof (*Effective from*
43 *passage*):

44 (a) Medical assistance shall be provided for any otherwise eligible
45 person whose income, including any available support from legally
46 liable relatives and the income of the person's spouse or dependent
47 child, is not more than one hundred forty-three per cent, pending
48 approval of a federal waiver applied for pursuant to subsection (d) of
49 this section, of the benefit amount paid to a person with no income

50 under the temporary family assistance program in the appropriate
51 region of residence and if such person is an institutionalized
52 individual as defined in Section 1917(c) of the Social Security Act, 42
53 USC 1396p(c), and has not made an assignment or transfer or other
54 disposition of property for less than fair market value for the purpose
55 of establishing eligibility for benefits or assistance under this section.
56 Any such disposition shall be treated in accordance with Section
57 1917(c) of the Social Security Act, 42 USC 1396p(c). Any disposition of
58 property made on behalf of an applicant or recipient or the spouse of
59 an applicant or recipient by a guardian, conservator, person
60 authorized to make such disposition pursuant to a power of attorney
61 or other person so authorized by law shall be attributed to such
62 applicant, recipient or spouse. A disposition of property ordered by a
63 court shall be evaluated in accordance with the standards applied to
64 any other such disposition for the purpose of determining eligibility.
65 The commissioner shall establish the standards for eligibility for
66 medical assistance at one hundred forty-three per cent of the benefit
67 amount paid to a family unit of equal size with no income under the
68 temporary family assistance program in the appropriate region of
69 residence, pending federal approval, except that the medical assistance
70 program shall provide coverage to persons under the age of nineteen
71 up to one hundred eighty-five per cent of the federal poverty level
72 without an asset limit. Said medical assistance program shall also
73 provide coverage to persons under the age of nineteen and their
74 parents and needy caretaker relatives who qualify for coverage under
75 Section 1931 of the Social Security Act with family income up to one
76 hundred per cent of the federal poverty level without an asset limit,
77 upon the request of such a person or upon a redetermination of
78 eligibility. Such levels shall be based on the regional differences in
79 such benefit amount, if applicable, unless such levels based on regional
80 differences are not in conformance with federal law. Any income in
81 excess of the applicable amounts shall be applied as may be required
82 by said federal law, and assistance shall be granted for the balance of
83 the cost of authorized medical assistance. All contracts entered into on
84 and after July 1, 1997, pursuant to this section shall include provisions

85 for collaboration of managed care organizations with the Healthy
86 Families Connecticut Program established pursuant to section 17a-56.
87 The Commissioner of Social Services shall provide applicants for
88 assistance under this section, at the time of application, with a written
89 statement advising them of the effect of an assignment or transfer or
90 other disposition of property on eligibility for benefits or assistance.

91 (b) For the purposes of the Medicaid program, the Commissioner of
92 Social Services shall consider parental income and resources as
93 available to a child under eighteen years of age who is living with his
94 or her parents and is blind or disabled for purposes of the Medicaid
95 program, or to any other child under twenty-one years of age who is
96 living with his or her parents.

97 (c) (1) For the purposes of determining eligibility for the Medicaid
98 program, an available asset is one that is actually available to the
99 applicant or one that the applicant has the legal right, authority or
100 power to obtain or to have applied for the applicant's general or
101 medical support. If the terms of a trust provide for the support of an
102 applicant, the refusal of a trustee to make a distribution from the trust
103 does not render the trust an unavailable asset. Notwithstanding the
104 provisions of this subsection, the availability of funds in a trust or
105 similar instrument funded in whole or in part by the applicant or the
106 applicant's spouse shall be determined pursuant to the Omnibus
107 Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of
108 this subsection shall not apply to special needs trust, as defined in 42
109 USC 1396p(d)(4)(A).

110 (2) For the purpose of determining eligibility for the Medicaid
111 program, an available asset shall not include the burial fund amount,
112 value of a burial plot or value of an irrevocable funeral contract
113 calculated in accordance with section 17b-91, as amended by this act.
114 The Commissioner of Social Services shall seek any waiver from
115 federal law necessary to implement this subdivision.

116 (d) The transfer of an asset in exchange for other valuable

117 consideration shall be allowable to the extent the value of the other
118 valuable consideration is equal to or greater than the value of the asset
119 transferred.

120 (e) The Commissioner of Social Services shall seek a waiver from
121 federal law to permit federal financial participation for Medicaid
122 expenditures for families with incomes of one hundred forty-three per
123 cent of the temporary family assistance program payment standard.

124 (f) Notwithstanding the provisions of subsection (a) of this section,
125 on or after April 1, 2003, all parent and needy caretaker relatives with
126 incomes exceeding one hundred per cent of the federal poverty level,
127 who are receiving medical assistance pursuant to this section, shall be
128 ineligible for such medical assistance. On and after February 28, 2003,
129 the Department of Social Services shall not accept applications for
130 medical assistance program coverage under Section 1931 of the Social
131 Security Act from parent and needy caretaker relatives with incomes
132 exceeding one hundred per cent of the federal poverty level until on or
133 after July 1, 2005.

134 (g) To the extent permitted by federal law, Medicaid eligibility shall
135 be extended for two years to a family who becomes ineligible for
136 medical assistance under Section 1931 of the Social Security Act while
137 employed or due to receipt of child support income or a family with an
138 adult who, within six months of becoming ineligible under Section
139 1931 of the Social Security Act becomes employed.

140 (h) An institutionalized spouse applying for Medicaid and having a
141 spouse living in the community shall be required, to the maximum
142 extent permitted by law, to divert income to such community spouse
143 in order to raise the community spouse's income to the level of the
144 minimum monthly needs allowance, as described in Section 1924 of
145 the Social Security Act. Such diversion of income shall occur before the
146 community spouse is allowed to retain assets in excess of the
147 community spouse protected amount described in Section 1924 of the
148 Social Security Act. The Commissioner of Social Services, pursuant to

149 section 17b-10, may implement the provisions of this subsection while
150 in the process of adopting regulations, provided the commissioner
151 prints notice of intent to adopt the regulations in the Connecticut Law
152 Journal within twenty days of adopting such policy. Such policy shall
153 be valid until the time final regulations are effective.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

AGE	<i>Joint Favorable Subst. C/R</i>	HS
HS	<i>Joint Favorable C/R</i>	APP